BOMBAY ACT No. XXVIII OF 1950.[1]

[THE BOMBAY COMMISSIONERS (ABOLITION OF OFFICE) ACT, 1950.]

[*24th July 1950*]

An Act to abolish the office of the Commissioner in the State of Bombay and to make provisions consequent on such abolition.

WHEREAS it is expedient to abolish the office of the Commissioner and whereas it is necessary to make provision for matters consequent on such abolition and for certain other matters; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Commissioners (Abolition of Office) Act, 1950.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Commissioner" means the Commissioner of a division and includes the Commissioner of Prohibition and Excise;

(*2*) "division" means the territories prescribed as a division under section 4 of the Bombay Land Revenue Code, 1879;

Bom. V of 1879.

(*3*) "existing law" means any enactment of a Legislature or other competent authority in relation to matters specified in Lists II and III in the Seventh Schedule to the Constitution in force immediately before the commencement of this Act and includes any rule, bye-law, regulation, order, notification or form made, prescribed or issued under any such enactment.

Construction of references to Commissioner in existing law.

3. With effect from the date of the commencement of this Act, the office of the Commissioner shall be abolished and subject to the provisions made in the Schedule, all existing laws shall, unless the context otherwise requires, be construed as if the references therein to the Commissioner were references to the State Government or to such authority as the State Government may, by a general or special order, appoint:

Provided that unless such general or special order otherwise directs, the State Government shall have and exercise the same power and control over the authority so appointed as it would have had and exercised over the Commissioner, and the authority so appointed shall also have and exercise the same power and control over the Collector and his subordinates as a Commissioner would have had and exercised, if this Act had not been passed.

Amendment of certain enactments.

4. The enactments mentioned in column 1 of the Schedule shall have effect as if the provisions specified in column 2 thereof were amended to the extent and in the manner in the said column 2.

Construction of references in instruments or documents.

5. All instruments or documents executed or made before the commencement of this Act under or with reference to any existing law or any enactment specified in the Schedule shall, unless the context otherwise requires, be construed as if

[1] For statement of Objects and Reasons, *see Bombay Government Gazette*, 1950, Part V, Page 153.

references therein to the Commissioner were references to the State Government or to such authority as the State Government may appoint under section 3 or to such other authority as may be provided in the Schedule, as the case may be.

Pending legal proceedings.

6. If at the commencement of this Act any legal proceedings are pending to which a Commissioner is a party, the State Government or such authority as is provided by the provisions of this Act shall be deemed to be substituted for the Commissioner in the said proceedings.

Pending proceedings before the Commissioner.

7. All proceedings including proceedings by way of appeals, revision or review pending under any existing law before a Commissioner immediately before the commencement of this Act shall be transferred for disposal to the State Government or such authority as the State Government may appoint in this behalf:

Provided that if such proceeding is transferred for disposal to the authority appointed by the State Government, the decision of such authority shall be subject to an appeal or revision to the State Government in the same manner and to the same extent to which the decision of the Commissioner was subject under the existing law.

Saving.

8. Any appointment, notification, order, rule, regulation, by-law, form, instrument or document made, prescribed, issued or executed before the commencement of this Act by the Commissioner under or with reference to the provisions of any existing law shall be deemed to have been made, prescribed, issued or executed by the State Government or such authority as the State Government may appoint under section 3 or such other authority as may be provided in the Schedule, as the case may be, and shall be valid and in operation unless and until superseded or modified by an appointment, notification, order, rule, regulation, bye-law, form, instrument or document made, prescribed, issued or executed by a competent authority.

SCHEDULE.

(*See* sections 3, 4 and 5.)

Bombay Acts.

Enactments. 1	Amendments. 2
1. The Bombay Hereditary Offices Act (Bom. III of 1874).	In section 5, in sub-section (*1*), the words "or in the case of a mortgage, charge, alienation, or lease of not more than thirty years, of the Commissioner" shall be deleted. 2. In section 6,— (1) for the word "Commissioner" and the words "said Commissioner" the words "State Government" shall be substituted; (2) for the word "he" the word "it" shall be substituted.

Enactments. 1	Amendments. 2
	3. In section 45,— (1) in clauses (*f*) and (*h*), for the word "Commissioner" the words "State Government" shall be substituted.; (2) in clause (*f*) for the word "he" the word "it" shall be substituted.
	4. In section 74, the words "the Commissioner and of" shall be deleted.
	5. In section 77, for the word "Commissioner" the words "State Government" shall be substituted.
	6. In section 79, the paragraph beginning with the words "The Provincial Government may delegate" and ending with the words "to impose" shall be deleted.
	7. In section 84, the words "a Commissioner or" shall be deleted.
2. The Bombay Land Revenue Code, 1879 (Bom. V of 1879).	For section 4, the following shall be substituted, namely :— "4. (*1*) The Chief Controlling authority in all matters connected with the land revenue shall vest in the State Government. Chief controlling authority in revenue matters. (*2*) The State Government may, by notification in the *Official Gazette*, prescribe the territories in the State which shall form a division and may by a like notification alter the limits of the division so formed."
	2. Sections 5 and 6 shall be deleted.
	3. In section 7, the words "under the control of the Commissioner" shall be deleted.
	4. In section 8, the words "shall be subordinate to the Commissioner of his division and" shall be deleted.
	5. In section 13, the words "and of the Commissioner" shall be deleted.
	6. In section 14, the words "by the Commissioner or" shall be deleted.
	7. In section 17, the words "and of the Commissioner" shall be deleted.
	8. In sections 39, 82 and 159, for the word "Commissioner" the words "State Government" shall be substituted.

Enactments.	Amendments.
	9. In section 49, for the word " Commissioner " the word " Collector " shall be substituted. 10. In section 152,— (1) for the word " Commissioner " the words " State Government " shall be substituted; and (2) the words " with the sanction of the Provincial Government " shall be deleted. 11. In section 154, for the word " Commissioner " the word " Collector " shall be substituted. 12. In section 158, for the words " The Commissioner may, with the sanction of the Provincial Government " the words " The State Government may " shall be substituted. 13. In section 183, the words " The Commissioner under the orders of " shall be deleted. 14. In section 204, the words and figures " Subject to the provision in the Bombay Revenue Tribunal Act, 1939 " shall be inserted at the commencement and the words " by a Commissioner or " shall be deleted.
3. The Bombay Irrigation Act, 1879 (Bom. VII of 1879).	1. In section 11, the words " or any Commissioner if empowered by the Provincial Government in this behalf " shall be deleted. 2. In section 57, in sub-section (*1*), for the words " or of any Commissioner empowered by the Provincial Government in this behalf " shall be deleted. 3. In section 60, for the words " for the information of the Commissioner of the Division and likewise to " the word " and " shall be substituted.
4. The Bombay District Municipal Act, 1901 (Bom. III of 1901).	In section 3, clause (3) shall be deleted.
5. The Bombay General Clauses Act, 1904 (Bom. I of 1904).	In section 3, clause (13) shall be deleted.
6. The Bombay Court of Wards Act, 1905 (Bom. I of 1905).	1. In section 3,— (1) for the words " the Commissioner shall be the Court of Wards for the limits of his division " the words " the Collector shall be the Court of Wards for the limits of his district " shall be substituted; (2) (*a*) in clause (*a*), the words " in lieu of the Commissioner " shall be deleted, (*b*) in clause (*b*), for the words " the Commissioner and any other officer or ", the word " two or more " shall be substituted.

Enactments.	Amendments.
1	2
	2. In section 19,—
	(1) in sub-section (*1*), the words " Where the Collector is not the Court of Wards " shall be inserted at the commencement;
	(2) in sub-section (*2*), the words " Where the Collector is not the Court of Wards " shall be inserted at the commencement;
	(3) after sub-section (*2*), the following shall be added, namely :—
	" (*3*) Where the Collector is the Court of Wards, subject to any general or special orders of the State Government, the Court of Wards may exercise all or any of the powers under this Act through an Assistant or Deputy Collector whom it may appoint in this behalf and subject to the like orders, any such Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue Officer subordinate to him not below the rank of a Mahalkari."
	3. In section 43, in sub-section (*1*),—
	(1) in clause (*a*), for the word " Commissioner " the word " Collector " shall be substituted;
	(2) clause (*b*) shall be deleted.
7. The Bombay Town Planning Act, 1915 (Bom. I of 1915).	1. In sections 4(*1*), 10(*2*), 26(*1*) and 43(*3*), the words " in the City of Bombay or the Commissioner elsewhere " shall be deleted.
	2. In section 43, in sub-section (*3*) the words " or his " shall be deleted.
	3. In section 45, in sub-section (*3*), the words " in the City of Bombay and by the Commissioner elsewhere " shall be deleted.
8. The Bombay Public Conveyances Act, 1920 (Bom. VII of 1920).	1. In section 36,—
	(1) in sub-section (*1*), the words " or the Commissioner of a Division " and " or his " shall be deleted.
	(2) in sub-sections (*2*) and (*4*), the words " or the Commissioner of the division, as the case may be " shall be deleted.
	2. In section 37, the words " or the Commissioner of a division, as the case may be," shall be deleted.

Enactments 1	Amendments. 2
9. The Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925).	1. In section 3, clause (3) shall be deleted.
10. The Bombay Revenue Tribunal Act, 1939 (Bom. XII of 1939).	In section 2, clause (1) and section 8 shall be deleted.
11. The Bombay Sales Tax Act, 1946 (Bom. V of 1946).	Throughout the Act, for the word "Commissioner" wherever it occurs the word "Collector" shall be substituted.
12. The Bombay Prohibition Act, 1949 (Bom. XXV of 1949).	1. Throughout the Act, except as otherwise provided, for the word "Commissioner" the word "Director" shall be substituted. 2. In section 2, for clause (5) the following shall be substituted, namely :— "(5) 'Director' means an Officer appointed as the Director of Excise and Prohibition under section 3." 3. In section 3— (1) for the words "Prohibition Commissioner" where they occur for the first time the words "Director of Excise and Prohibition" shall be substituted; (2) for the proviso, the following shall be substituted, namely :— "Provided that the person appointed as and holding office of the Prohibition Commissioner immediately before the date on which the Bombay Commissioners (Abolition of Offices) Act, 1950, comes into force shall be the Director of Excise and Prohibition and shall hold the office of the Director of Excise and Prohibition until the State Government directs otherwise." ; Bom. XXVIII of 1950. (3) for the marginal note the following shall be substituted, namely :— "Director of Excise and Prohibition."
13. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bom. LXII of 1949).	In section 6, for the word "Commissioner" the words "State Government" shall be substituted.